

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION

UNITED STATES OF AMERICA, ) CASE NO. 4:16-CR-213-A  
 )  
Government, )  
 ) FORT WORTH, TEXAS  
VERSUS )  
 ) MARCH 3, 2017  
JOSE PABLO MORALES (02), )  
 )  
Defendant. ) 9:46 A.M.

VOLUME 1 OF 1  
TRANSCRIPT OF SENTENCING  
BEFORE THE HONORABLE JOHN McBRYDE  
UNITED STATES DISTRICT COURT JUDGE

**A P P E A R A N C E S :**

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**P R O C E E D I N G S**

March 3, 2017 - 9:46 a.m.

*THE COURT:* Okay. I'm next calling for sentencing, it's Number 4:16-CR-213-A. There are two defendants in that case. I'm going to call first defendant Jose Pablo Morales.

And Mr. Smith's here for the government, and Mr. Jenkins is here for Mr. Morales.

Mr. Morales, state your full name for the record.

*THE DEFENDANT:* Jose Morales, Jose Pablo Morales.

*THE COURT:* You appeared before me on October 6, 2016, when you -- no, that's not the -- that's the date the information was filed, the superseding information.

You appeared before me on October 20, 2016, when you pleaded guilty to the offense charged by that superseding information that the government filed on October 6, and, of course, we're here today for sentencing based on the conviction resulting from that plea of guilty.

Mr. Jenkins, did you and your client receive the Presentence Report in a timely manner?

*MR. JENKINS:* We did, Your Honor.

*THE COURT:* How about the addendum?

*MR. JENKINS:* Yes, Your Honor.

*THE COURT:* And did the two of you read those items and then discuss them with each other?

*MR. JENKINS:* We did, Your Honor.

1           THE COURT: Okay. Okay. There being no objections  
2 to the Presentence Report, the Court adopts as the fact  
3 findings of the Court the facts set forth in the Presentence  
4 Report as modified or supplemented by the addendum, and adopts  
5 as the conclusions of the Court the conclusions expressed in  
6 the Presentence Report as modified or supplemented by the  
7 addendum.

8           The Court concludes that the guideline imprisonment  
9 range, had the defendant been charged with his true offense  
10 conduct, would be a life sentence, but since the government  
11 chose to charge him with something less than his true offense  
12 conduct, it became -- the guideline imprisonment became the  
13 statutory maximum of 480 months, so that becomes the guideline  
14 sentence range; and the supervised release range is 4 to 5  
15 years; the fine range is \$50,000 to \$5 million; and a special  
16 assessment of \$100 is mandatory.

17           Okay. You can make whatever statement you would  
18 like to make on behalf of your client, Mr. Jenkins.

19           MR. JENKINS: Thank you, Your Honor.

20           Mr. Morales has, as we've noted, an extensive  
21 criminal history, but he also has a diagnosis of being  
22 bipolar. He has -- since his incarceration, he's cooperated  
23 in his case with the government. He has accepted his  
24 responsibility.

25           He has -- he's rededicated himself to his spiritual

1 life. He has expressed a desire to be a good, law-abiding  
2 citizen at the time he gets out. He knows it's going to be a  
3 lengthy time, but he is really desiring to get out in time to  
4 still have a family and to assist his own family with their  
5 business. He understands everything he's done wrong, and he  
6 would certainly never do anything of any illegal nature again.

7 So while we understand that the guideline range is  
8 the maximum due to the severity of this case, we would ask  
9 that you show some mercy on him and sentence him below that.  
10 We believe a sentence of around 360 months would be more than  
11 adequate to meet all the guidelines of sentencing and show  
12 Mr. Morales the correct severity of this crime, but also give  
13 him a chance to have a life following his incarceration.  
14 Thank you.

15 *THE COURT:* Mr. Morales, you have the right to make  
16 any statement or presentation you would like to make on the  
17 subject of mitigation, that is, the things you think the Court  
18 should take into account in determining what sentence to  
19 impose, or on the subject of sentencing more generally, and at  
20 this time I'll invite you to do that.

21 *THE DEFENDANT:* I just want to apologize to  
22 everybody in the courtroom and everybody I affected as far as  
23 society, and my family that is right here with me supporting  
24 me, and I accept -- I know what I did was wrong, and I just  
25 want to change and hopefully you'll show some mercy. That's

1 it, sir.

2 *THE COURT:* Okay. Anything else?

3 *MR. JENKINS:* Nothing further, Your Honor.

4 *THE COURT:* Okay. Well, a sentence within the  
5 guideline range, and, of course, that's 480 months here, is  
6 presumably a reasonable and appropriate sentence, and I  
7 haven't seen anything in this case that would cause me to  
8 believe that such a sentence should not be imposed.

9 His criminal history is disturbing. Well, it starts  
10 when he was 15 years of age. He was put in a boot camp at 15  
11 for criminal trespass. He was adjudicated a delinquent and  
12 put on probation and then that probation was extended.

13 And then again when he was 15, he was charged with  
14 resisting arrest, and he was put on probation, and that  
15 probation was extended and finally was discharged.

16 Then at age 18, he was convicted of burglary of a  
17 habitation, and he got a 5-year sentence of imprisonment. And  
18 then he was considered for boot camp in 2009, and he was  
19 released from boot camp on probation, and then he violated his  
20 conditions of probation and that was revoked.

21 And then again at age 18, he pleaded guilty to a  
22 robbery. Apparently he ran up behind a lady and grabbed her  
23 purse from her shoulder and ran back and got in a vehicle. He  
24 got a sentence of 10 years of deferred adjudication probation,  
25 and then he violated the conditions of that, and it was

1 revoked and he was found guilty, and then he got another  
2 sentence of probation and it was revoked.

3 And then at age 20 again -- let's see, that was at  
4 age 18.

5 At age 20, he pleaded guilty to fraudulent use and  
6 possession of identification and was sentenced to 5 years  
7 imprisonment after he pleaded guilty. He was released on  
8 parole and apparently served that sentence out.

9 Then again at age 20, he was convicted on a plea of  
10 nolo contendere of assault causing a bodily injury. He got a  
11 fairly light sentence, 324 days.

12 Age 25 -- and that's getting pretty close to where  
13 we are now -- he was convicted of possession of  
14 methamphetamine, and that was on a plea of guilty. He got a  
15 suspended sentence of 5 years imprisonment, and there's a  
16 motion to revoke that pending now. Apparently there's an  
17 allegation at least that he violated the conditions of that  
18 probation. Apparently that involved use of a pistol, as well  
19 as possession of controlled substances.

20 Then at age 25 again, he was convicted of unlawful  
21 possession of a firearm. I guess that's the firearm I just  
22 referred to, and he has the same history as far as sentence is  
23 concerned that he had on the last one. He pleaded guilty and  
24 got a sentence of 5 years imprisonment, suspended for 5 years,  
25 and then apparently is accused of violating a condition of

1 that probation, and that's led now to a revocation.

2 I don't know of any reason why the Court should not  
3 follow the advisory guideline range, and so that's the  
4 sentence I'm going to impose. It's a sentence of 480 months  
5 imprisonment, and that will be combined with a term of  
6 supervised release of 4 years to start once the sentence of  
7 imprisonment has been served.

8 That term of imprisonment is to be consecutive to  
9 the sentences imposed in Case Numbers F-1460012-H and  
10 F-1460011-H in the Dallas County Criminal Court -- District  
11 Court Number 1; and the conditions of that supervised release,  
12 I'll go over those in a minute; and then that would be  
13 combined with a payment of a special assessment of \$100. Of  
14 course, that will be payable immediately to the clerk of court  
15 here in Fort Worth.

16 I believe a sentence of the kind I've described not  
17 only is the advisory guideline sentence, but is a sentence  
18 that properly and appropriately addresses all the statutory  
19 factors the Court should consider in sentencing under 18  
20 United States Code Section 3553(a).

21 So the Court's ordering and adjudging that the  
22 defendant be committed to the custody of the Bureau of Prisons  
23 to serve a term of imprisonment of 480 months, and that  
24 sentence is to run consecutive to the sentences -- any  
25 sentences imposed in the two Dallas County Criminal District



1 Court cases I mentioned.

2 I'm also ordering that the defendant serve a term of  
3 supervised release of 4 years, and that will start when he's  
4 completed his sentence of imprisonment.

5 Now, the conditions of that supervised release will  
6 be the standard conditions that will be set forth in the  
7 judgment of conviction and sentence, and the following  
8 additional conditions:

9 He shall not commit another federal, state, or local  
10 crime.

11 He shall not unlawfully possess a controlled  
12 substance.

13 He shall cooperate in the collection of DNA as  
14 directed by the probation officer.

15 He shall participate in mental health treatment  
16 services as directed by the probation officer until  
17 successfully discharged, and those services may include  
18 prescribed medications by a licensed physician, and he'll  
19 contribute to the cost of those services at the rate of at  
20 least \$20 a month.

21 He shall refrain from any unlawful use of a  
22 controlled substance and shall submit to one drug test within  
23 15 days of release from imprisonment and at least two periodic  
24 drug tests thereafter as directed by the probation officer.

25 He shall participate in a program approved by the

1 probation officer for treatment of narcotic or drug or alcohol  
2 dependency that will include testing for the detection of  
3 substance use, and he shall abstain from the use of alcohol  
4 and all other intoxicants during and after completion of that  
5 treatment, and he'll contribute to the cost of those services  
6 at the rate of at least \$20 a month.

7 I'm also ordering the defendant to pay a special  
8 assessment of \$100. That's payable immediately to the United  
9 States of America through the office of the clerk of court  
10 here in Fort Worth.

11 Mr. Morales, you have the right to appeal from the  
12 sentence I've imposed, if you're dissatisfied with it. That  
13 appeal would be to the United States Court of Appeals for the  
14 Fifth Circuit.

15 You have the right to appeal in forma pauperis, that  
16 means without any cost to you, if you were to qualify for it.  
17 You also have the right to have the clerk of court file a  
18 notice of appeal for you, and the clerk would do that  
19 forthwith, if you specifically request it.

20 You and your attorney have been given a form that  
21 outlines certain rights and obligations in reference to an  
22 appeal. If you haven't already done so, I want the two of you  
23 to review that and be sure you understand it, and once both of  
24 you are satisfied you understand it, I want both of you to  
25 sign it return and to the court coordinator.

1                   Has that been done, Mr. Jenkins?

2                   MR. JENKINS: It has been, Your Honor.

3                   THE COURT: Okay. Let's see. The government wants  
4 to move to dismiss something, I think.

5                   MR. SMITH: Yes, Your Honor, the indictment filed on  
6 September 7th, 2016, as to this defendant only.

7                   THE COURT: Is that the fourth superseding  
8 indictment filed in this case?

9                   MR. SMITH: Yes, Your Honor.

10                  THE COURT: Okay. And you want it dismissed only as  
11 to this defendant?

12                  MR. SMITH: Yes, Your Honor.

13                  THE COURT: Okay. I'll grant that motion.

14                  MR. JENKINS: Thank you, Your Honor.

15                  THE COURT: Okay. The defendant's remanded to  
16 custody, and you're excused, Mr. Jenkins.

17                  MR. JENKINS: Thank you, Your Honor.

18                  (End of Proceedings)

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**REPORTER'S CERTIFICATE**

I, Debra G. Saenz, CSR, RMR, CRR, certify that the foregoing is a true and correct transcript from the record of proceedings in the foregoing entitled matter.

I further certify that the transcript fees format comply with those prescribed by the Court and the Judicial Conference of the United States.

Signed this 23rd day of August, 2018.

/s/ Debra G. Saenz

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